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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/528,082	03/14/2005	Joseph D Mosca		5825

7590
PATENTIQUE PLLC
PO Box 5803
Bellevue, WA 98006

EXAMINER

BLANCHARD, DAVID J

ART UNIT	PAPER NUMBER
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1643

MAIL DATE	DELIVERY MODE
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06/25/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/528,082

Applicant(s)

MOSCA, JOSEPH D

Examiner

DAVID J. BLANCHARD

Art Unit

1643

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 16-18, 21 and 23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 16-18, 21 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is WITHDRAWN.
2. Claims 6-15, 19-20 and 24-26 are cancelled.
Claims 1 has been amended.
3. Claims 1-5, 16-18, 21 and 23 are pending and under consideration.
4. This Office Action contains New Grounds of Rejections

Rejections Withdrawn

5. The rejection of claims 1-5, 8, 16-20 and 23-26 under 35 U.S.C. 103(a) as being unpatentable over Hiserodt et al (U.S. 6,277,368 B1, filed 7/24/1997, cited on PTO-892 mailed 11/30/2007) in view of Wagner et al (Intervirology, 39(1)93-103, 1996) is withdrawn in view of the amendments to claim 1.
6. The rejection of claims 1, 19, 21 and 22 under 35 U.S.C. 103(a) as being unpatentable over Nawrocki et al (Cancer Treatment Reviews, 25:29-46, 1999, cited on PTO-892 mailed 8/29/2008) in view of Wagner et al (Intervirology, 39(1)93-103, 1996) is withdrawn in view of the amendments to the claims.
7. The rejection of claim 7 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement is withdrawn in view of applicants' arguments and cancellation of the claim.

New Grounds of Rejections

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1-5, 16-18, 21 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Mosca J. D. (WO 02/079396, published 10/10/2002).

Mosca teaches methods for inducing an antigen-specific T cell mediated immune response for the treatment of cancer in a patient comprising administering a biological carrier preparation/whole virus particles that are totally inactivated and non-infectious, wherein the biological carrier preparation/whole virus particles comprise membrane fragments of the host cell or tumor cell (e.g., the host cell is either a tumor or non-tumor cell), wherein the tumor cell expresses at least one tumor antigen that is processed and bound to a host cell/tumor cell surface molecule that is an MHC class I or II surface molecule and wherein the biological carrier preparation/whole virus particles further comprises a co-stimulatory molecule, including B7-1 or B7-2 (see entire document, particularly pp. 4-5, 7-9, 12-14, claims and Figs. 1-2). Mosca teaches that tumor cells isolated from patients or established tumor-derived cells can be used as host for virus infections and the virus particles are harvested and inactivated, wherein the inactivated virus particles maintain their structure and can be used as a scaffold to carry cell surface expressed molecules (see pg. 14, lines 2-10, Fig. 2 and pg. 4, lines 1-5). Further, Mosca teaches that the biological carriers can behave as antigen-presenting cells for the activation of T cell responses (pg. 12, lines 18-19) and thus, would necessarily mimic dendritic cells.

Thus, Mosca anticipates the claims.

10. No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Blanchard whose telephone number is (571) 272-0827. The examiner can normally be reached at Monday through Friday from 8:00 AM to 6:00 PM, with alternate Fridays off. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Larry Helms, can be reached at (571) 272-0832.

The official fax number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1643

Information regarding the status of an application may be obtained from the patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/David J. Blanchard/
Primary Examiner, A.U. 1643